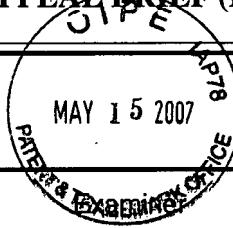


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TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
ITL.0075US

In Re Application Of: James P. Ketrenos



Application No.	Filing Date		Customer No.	Group Art Unit	Confirmation No.
09/153,369	September 15, 1998	Hunter B. Lonsberry	21906	2623	5432

Invention: Maintaining Access to a Video Stack After an Application Crash

COMMISSIONER FOR PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

March 29, 2007

The fee for filing this Appeal Brief is: No fee due; fee paid on 05/17/2006.

- A check in the amount of the fee is enclosed.
- The Director has already been authorized to charge fees in this application to a Deposit Account.
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Signature

Dated: May 9, 2007

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May 9, 2007

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Signature of Person Mailing Correspondence

Nancy Meshkoff

Typed or Printed Name of Person Mailing Correspondence

cc:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant: §
James P. Ketrenos § Art Unit: 2623
§
Serial No.: 09/153,369 § Examiner: Hunter B. Lonsberry
§
Filed: September 15, 1998 § Atty Docket: ITL.0075US
§ P6261
For: Maintaining Access to a Video §
Stack After an Application Crash § Assignee: Intel Corporation
§

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APPEAL BRIEF

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Nancy Meshkoff

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REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-3 (Rejected).

Claims 4-5 (Canceled).

Claims 6-15 (Rejected).

Claims 16-17 (Canceled).

Claims 18-33 (Rejected).

Claim 34 (Canceled).

Claims 35-37 (Rejected).

Claims 1-3, 6-15, 18-33, and 35-37 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 calls for monitoring to detect if a first application that requested video crashes while receiving video. It also calls for maintaining access to a video stream for a second application after the crash. Finally it calls for shutting down a television capture card when a crash is detected.

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

1. A method for accessing a video stream comprising:
 - when a first application requests video, initializing the video stream from a video server (Figure 2, block 38, specification at page 4, lines 15-17);
 - providing the video stream for the first application (Figure 2, block 40, specification at page 4, lines 17-18);
 - monitoring to detect if the first application crashes while receiving the video stream (Figure 2, diamond 42, specification at page lines 19-26);
 - if the first application crashes, maintaining access to the video stream for a second application through the video server (specification at page 5, lines 5-13); and
 - shutting down a television capture card when a crash is detected (Figure 2, block 50, specification at page 4, lines 26-28).

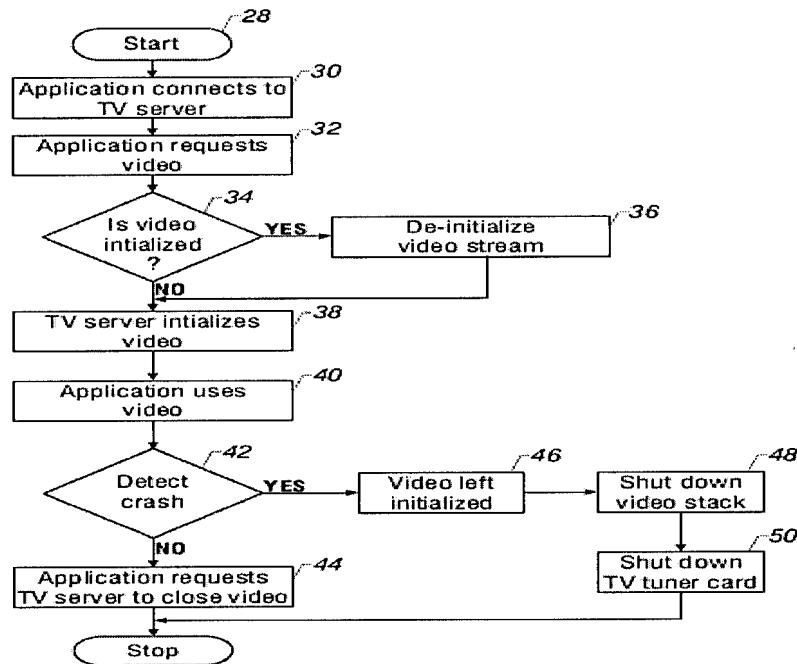


FIG. 2

9. A method for accessing a television video stream comprising:
connecting an application needing video services to a television server using a
window which operates in a separate address space from the application;
monitoring to determine if the application crashes while receiving the video
stream; and
when the application crashes, automatically shutting down a video stack and a
video capture card.

13. An article comprising a medium for storing instructions that, if executed, enable a computer to:

when a first application requests video, initialize a video stream using a video server (Figure 2, block 38, specification at page 4, lines 15-17);
provide the video stream for the first application (Figure 2, block 40, specification at page 4, lines 17-18);
monitor to detect if the first application crashes while receiving the video stream (Figure 2, diamond 42, specification at page lines 19-26);
if the first application crashes, maintain access to the video stream for a second application through the video server (specification at page 5, lines 5-13); and
shut down a television capture card when a crash is detected (Figure 2, block 50, specification at page 4, lines 26-28).

21. An article comprising a medium for storing instructions for causing a computer to:

connect an application needing video services to a television server using a window which operated in a separate address space from the application;
monitor to determine if the application crashes while receiving a video stream;
and
when the application crashes, automatically shut down a video stack and a video capture card.

25. A computer system comprising:
a processor (52, Figure 3);
a television tuner card coupled to a processor (62, Figure 3);
a memory (56, Figure 3) coupled to said processor storing programs which cause

a computer to:

connect an application needing video service to a television server using a window which operates in a separate address space from the application (specification at page 3, line 29 to page 4, line 6);

monitor to determine if the application crashes while receiving the video stream (42, Figure 2, specification at page 4, lines 19-26); and

when the application crashes, automatically shut down a video stack and the video capture card (Figure 2, 48, 50, specification at page 4, lines 26-28).

26. A method of accessing a video stream comprising:

when a first application requests video, initializing a video stream using a video server (specification at page 3, line 29 to page 4, line 6); and

if the first application crashes, maintaining access to the video stream for a second application through the video server and shutting down a television capture card (specification at page 5, lines 5-13).

28. A method for accessing video stream comprising:

in response to a request for video from a first application, initializing a video stream using a video server (Figure 2, blocks 32-38); and

if the first application crashes, maintaining access to the video stream for a second application through the video server and directing the server to release the video stack (specification at page 5, lines 5-13).

30. An article comprising a medium storing instructions that, if executed, enable a computer to:

in response to a request for video from a first application, initialize a video stream using a video server (Figure 2, blocks 32-38); and

if the first application crashes, maintain access to the video stream for a second application through the video server and shut down a television capture card (specification at page 5, lines 5-13).

32. An article comprising a medium storing instructions that, if executed, enable a computer to:

in response to a request for video from a first application, initialize a video stream using a video server (Figure 2, blocks 32-38);

if the first application crashes, maintain access to the video stream for a second application through the video server (Specification at page 5, lines 5-13);

operate a first window in the application for accessing the television server and a second window in the server for accessing a video stack(Specification at page 3, lines 8-13; Figure 1, 14, 19); and

shut down a television tuner card when a crash is detected (Figure 2, block 50; Specification at page 4, lines 26-28.

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. **Whether claims 1, 2, 6, 8, 9, 12-14, 18, 20, 26, and 30-32 are unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Hullinger (US 6,295,092) and Safadi (6,256,393).**
- B. **Whether claims 3, 10, and 15 are unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Fuchs (US 5,440,726).**
- C. **Whether claims 28, 29, and 35 are unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Bopardikar (US 6,404,975).**
- D. **Whether claims 7, 11, 19-21, 23-25, 27, 33, and 36-37 are unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Bopardikar (US 6,404,975).**
- E. **Whether claim 22 is unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Bopardikar (US 6,404,975) and in further view of Fuchs (US 5,440,726).**

ARGUMENT

A. Are claims 1, 2, 6, 8, 9, 12-14, 18, 20, 26, and 30-32 unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Hullinger (US 6,295,092) and Safadi (6,256,393)?

Claim 1 calls for "monitoring to detect if the first application crashes while receiving the video stream." Nothing of the sort is set forth in Semenzato. The material at column 8, lines 17-21, column 9, lines 12-20, and column 10, lines 5-8 may support the proposition that the "plug-in body 114b saves and persistent memory and data in which the plug-in body 114b may invoke in subsequent invocations," but this does not meet the claimed limitation of monitoring to detect a crash, unless crash is defined in an extremely abnormal way. It is well established that a "crash" means that something stops working. To suggest that any time "there is an issue" that is a crash is to stretch the webepedia definition beyond its intent and, certainly, to turn the definition of "crash" on its ear. It is as if someone stops their car at the gas station because the car is overheating and they walk up to the mechanic and tell him "I had a crash." Simply because messages are provided to and from the body 114b does not mean that there is a detection if a first application that is handling video crashed. Thus, not only does Semenzato fail to teach shutting down a television tuner card when a crash is detected, Semenzato never has anything to do with a crash and never detects if the first application crashes while receiving the video stream. Therefore, he also does not teach if the first application crashes, maintaining access to the video stream for a second application through the video card.

The pertinency of Hullinger is very difficult to understand. It is suggested that it would be obvious to modify Semenzato to include a video capture board and tuner card "so that a user may access the competitiveness of different broadcasters in the area and review the programs at the time of user's own choosing." What bearing this has on the claims is never explained. It certainly does not teach monitoring to detect if the first application crashes and it does not teach if the first application crashes, maintaining access to a video stream for a second application through the video server. Moreover, it has nothing to do with shutting down a television tuner card when a crash is detected. Thus, the combination of Semenzato and Hollinger fails to teach anything set forth in the claims.

With respect to Safadi, it is suggested that "if a background check fails, the computing devices are shutdown in order to prohibit unauthorized access of content." But nothing of the sort is claimed. What is claimed is monitoring to detect if one application crashes while receiving a video stream and if it crashes, maintaining access to the video stream for a second application through a video server. Neither of these elements are shown in any of the three cited references.

Moreover, shutting down to prevent unauthorized access does not teach shutting down a television tuner card when a crash is detected. First of all, the failure to pass a background check does not amount to a crash. Moreover, shutting down the computer in response to a background check does not teach shutting down a television tuner card when a crash is detected of an application. Thus, Safadi fails to remedy any of the defects inherent in the prior two cited references.

Therefore, the rejection should be reversed.

Claim 32 *inter alia* calls for operating a first window in an application for accessing the television server and a second window in the server for accessing a video stack, in addition to other limitations already discussed.

Since the office action omits any reference to this limitation, a *prima facie* rejection is not made out.

Therefore, the rejection should be reversed.

B. Are claims 3, 10, and 15 unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Fuchs (US 5,440,726)?

For the reasons set forth in A above this rejection should be reversed.

C. Are claims 28, 29, and 35 unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Bopardikar (US 6,404,975)?

On the same basis as set forth in A above, the rejection of claim 28, based on Semenzato and Bopardikar, should be reversed. There is no request for video from a first application or initializing a video stream using a video server or, if an application crashes, directing access to the video stream for a second application through the video server and directing the server to

release the stack. There is no video stack in Bopardikar or any video server. There is no crash in Semenzato and there is nothing relevant in Semenzato. Bopardikar has nothing to do with the video stack, never even mentions the same, and is utterly irrelevant to the claimed invention. Moreover, no rationale to modify Bopardikar to apply Bopardikar to the claimed field is ever attempted. Therefore, a *prima facie* rejection is not made out.

D. Are claims 7, 11, 19-21, 23-25, 27, 33, and 36-37 unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Bopardikar (US 6,404,975)?

Claim 21 calls for an article storing instructions to connect an application to video services to a television server using a window which is operated in a separate address space from the application. This limitation is never even addressed in the office action and, therefore, a *prima facie* rejection is not made out. The office action, on page 13, third paragraph, states that "the combination of Semenzato, Safadi, and Hollinger does not disclose shutting down a video stack when a crash is detected." Since this element is also set forth in corrected form in claims 1 and 13, which are rejected only on those references, the office action admits that a *prima facie* rejection is not made out with respect to these claims.

With respect to claim 21 though, no reference is cited as teaching "using a window which is operated in a separate address space from the application." Since the element is not even addressed, the rejection should be reversed.

The same element is in claim 25. It is suggested that the element is taught in Semenzato in Figures 2C and 3 and column 6, lines 43-64. Nothing pertinent appears in Figures 2C or 3 with respect to connect an application needing video service to a television server using a window which operates in a separate address space from the application needing the video services. Nothing in the material in column 6 has anything to do with establishing such a window.

For this reason, and the fact that none of the references teach monitoring to determine if the application crashes while receiving a video stream and when the application crashes or automatically shut down a video stack in the video capture card, the rejections should be reversed. The claim is specific that a video stack and a tuner card are shutdown. The claim does not suggest that the whole computer system is shutdown. Nothing teaches shutting down the

video stack and the use of a tuner card. Safadi has nothing to do with a video stack or a tuner card and, just because a periodic background check fails and the computer is shutdown, teaches nothing relevant to the claimed invention since there is no video stack.

Bopardikar has nothing to do with a video stack or shutting down a video stack and a video tuner card. Basically, it relates to a video storage system which would not have either of these items. Neither of them are even mentioned in any of the cited material. Plainly, a *prima facie* rejection is in no way made out.

Because Bopardikar detects a disk failure, this is suggested that somehow it teaches something relevant to the claimed invention, which is never explained. Nowhere is any rationale to modify Bopardikar to apply to handling the crashing of an application needing video services. Again, no *prima facie* rejection is presented.

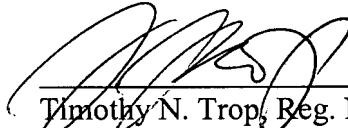
E. Is claim 22 unpatentable under 35 U.S.C. § 103(a) over Semenzato (US 5,903,728) in view of Safadi (6,256,393) and Hullinger (US 6,295,092) in further view of Bopardikar (US 6,404,975) and in further view of Fuchs (US 5,440,726)?

For the reasons set forth in A above this rejection should be reversed.

* * *

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,



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CLAIMS APPENDIX

The claims on appeal are:

1. A method for accessing a video stream comprising:
when a first application requests video, initializing the video stream from a video server;
providing the video stream for the first application;
monitoring to detect if the first application crashes while receiving the video stream;
if the first application crashes, maintaining access to the video stream for a second application through the video server; and
shutting down a television tuner card when a crash is detected.
2. The method of claim 1 including detecting when the first application crashes.
3. The method of claim 2 wherein detecting when the first application crashes includes detecting when the first application crashes by monitoring an exception handler.
6. The method of claim 1, wherein maintaining access to the video stream includes operating said video stream in a separate address space from the first application.
7. The method of claim 1 wherein when a crash is detected, directing the server to release the video stack.
8. The method of claim 1, wherein maintaining access to the video stream includes using software in the second application for accessing said server and software in said server for accessing the video stack.

9. A method for accessing a television video stream comprising:
connecting an application needing video services to a television server using a
window which operates in a separate address space from the application;
monitoring to determine if the application crashes while receiving the video
stream; and
when the application crashes, automatically shutting down a video stack and a
video tuner card.

10. The method of claim 9 including detecting when the application crashes by
monitoring an exception handler.

11. The method of claim 9 wherein when a crash is detected, directing the television
server to release the video stack.

12. The method of claim 9 including operating a first window in the application for
accessing the television server and a second window in said server for accessing the video stack.

13. An article comprising a medium for storing instructions that, if executed, enable a
computer to:
when a first application requests video, initialize a video stream using a video
server;
provide the video stream for the first application;
monitor to detect if the first application crashes while receiving the video stream;
if the first application crashes, maintain access to the video stream for a second
application through the video server; and
shut down a television tuner card when a crash is detected.

14. The article of claim 13 including instructions for causing the computer to detect
when the first application crashes.

15. The article of claim 14 further including instructions for causing the computer to detect when the first application crashes by monitoring an exception handler.

18. The article of claim 13 including instructions for causing the computer to operate said video stream in a separate address space from the application.

19. The article of claim 13 including instructions for causing the computer to direct the television server to release a video stack when a crash is detected.

20. The article of claim 13 including instructions for causing the computer to operate a first window in the application for accessing the television server and a second window in said server for accessing a video stack.

21. An article comprising a medium for storing instructions for causing a computer to:

connect an application needing video services to a television server using a window which operated in a separate address space from the application;

monitor to determine if the application crashes while receiving a video stream; and

when the application crashes, automatically shut down a video stack and a video tuner card.

22. The article of claim 21 including instructions for causing the computer to detect when the application crashes by monitoring an exception handler.

23. The article of claim 21 including instructions for causing the computer to direct the television server to release the video stack when a crash is detected.

24. The article of claim 21 including instructions for causing the computer to operate a first window in the application for accessing the server and a second window in said server for accessing the video stream.

25. A computer system comprising:

- a processor;
- a television tuner card coupled to a processor;
- a memory coupled to said processor storing programs which cause a computer to:
 - connect an application needing video service to a television server using a window which operates in a separate address space from the application;
 - monitor to determine if the application crashes while receiving the video stream;

and

- when the application crashes, automatically shut down a video stack and the video tuner card.

26. A method of accessing a video stream comprising:

- when a first application requests video, initializing a video stream using a video server; and
- if the first application crashes, maintaining access to the video stream for a second application through the video server and shutting down a television tuner card.

27. The method of claim 26 including directing the server to release the video stack after a crash is detected.

28. A method for accessing video stream comprising:

- in response to a request for video from a first application, initializing a video stream using a video server; and
- if the first application crashes, maintaining access to the video stream for a second application through the video server and directing the server to release the video stack.

29. The method of claim 28 including shutting down the video stack in response to the detection of a crash.

30. An article comprising a medium storing instructions that, if executed, enable a computer to:

in response to a request for video from a first application, initialize a video stream using a video server; and

if the first application crashes, maintain access to the video stream for a second application through the video server and shut down a television tuner card.

31. The article of claim 30 further storing instructions that, if executed, enable the computer to detect when the first application crashes.

32. An article comprising a medium storing instructions that, if executed, enable a computer to:

in response to a request for video from a first application, initialize a video stream using a video server;

if the first application crashes, maintain access to the video stream for a second application through the video server;

operate a first window in the application for accessing the television server and a second window in the server for accessing a video stack; and

shut down a television tuner card when a crash is detected.

33. The article of claim 32 further storing instructions that, if executed, enable a computer to shut down a video stack when a crash is detected.

35. The article of claim 32 further storing instructions that, if executed, enable the computer to detect when the first application crashes.

36. The method of claim 1 including shutting down the video stack when a crash is detected.

37. The article of claim 13 including instructions for enabling the computer to shut down a video stack when a crash is detected.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.